

**AGENDA ITEMS FOR THE 2<sup>nd</sup> MEETING OF THE COMMITTEE TO DECIDE ON THE CRZ MATTERS AS PER THE NOTIFICATION NO. GCZMA/CONST/05/STE/98 DATED 03/08/2016 TO BE HELD ON 23/08/2016 (TUESDAY) AT 3:00 P.M. IN THE CONFERENCE HALL, 2<sup>ND</sup> FLOOR, SECRETARIAT, PORVORIM – GOA.**

**Item No.1:** To confirm the minutes of the 1<sup>st</sup> Meeting of the Committee to decide on CRZ matters held on 05/08/2016.

The minutes of the 1<sup>st</sup> Meeting of the Committee to decide on CRZ matters held on 05/08/2016 are enclosed herewith (Annexure 'I'). The members may kindly give their comments / suggestions, if any and the same may be confirmed.

**Item No. 2: To discuss and decide on Court Matters / Directional Matters / Complaints of Violation of the CRZ Notification 1991 / 2011 and Allied / Connected Matters**

**Case No. 2.1:**

**To Comply with the Order dated 02/09/2015 passed by the Hon'ble High Court of Bombay at Goa in the matter of Shri.Uday K.Naik V/s State of Goa & Ors. in W.P. No. 642/2015.**

**Background**

1. Earlier a Public Interest Litigation Writ Petition (PIL WP) no.11/2014 was filed by the Chicalim Villagers Action Committee through its member Ms. Mary Da Costa and 3 ors v/s State of Goa & 6 ors interalia aggrieved by alleged illegal reclamation of land and land/mud filling in river Zuari being undertaken by M/s Abhishek Engineers in survey nos.16/6, 16/7 &72/1 of village Dabolim, Mormugao Taluka and alleged inaction on part of Goa Coastal Zone Management Authority (hereinafter referred to as "the GCZMA" in short) and various other authorities .
2. In this regard site was jointly inspected by Goa State Bio Diversity Board and expert member GCZMA Dr. Antonio Mascarenhas on 07/03/2014 and report prepared by the expert member dated 07/03/2014 along with photographs noted various violations pertaining to CRZ Notification 2011. The observations recorded by the expert member, GCZMA during the site inspection are as follows:
  - i) The plot is located at Chicalim bay, adjacent to NH 17A, along the southern bank of River Zuari.
  - ii) The mandatory setback between the road edge and the property is lacking; instead, wire mesh fencing is fixed along the road edge.

- iii) Encroachment into the riverine area is clearly identified. The obvious evidence is the filling the bank with earth, thus spreading barge repair activities further into the river. Some mud is appears fresh, indicating that the filling is done regularly (may refer to photos and multi-dated Google Earth images on pages 2 ó 3 of the inspection report).
- iv) In addition, there is also evidence of some mud filling done earlier; this is proved by the presence of an older embankment at the site.
- v) An old ramp with rails laid into the water was noted; this is used to haul marine craft onto the reclaimed bank.
- vi) Since the road is located at a higher level, cutting along road side has been done by the owners; this mud is used for reclamations; a truck transporting mud was seen at the site.
- vii) A large barge, around 60 m long, was being built at the site.
- viii) The Chicalim bay constitutes a mud flat; this feature is observed in the toposheet of 1964, and also NHO charts of 1970, 1986 and 2003. Presently, the mud flat appears degraded / eroded probably due to the continuous movement of barges that touch river bed at low tide.
- ix) An analyses of multi dated Google images (3 scenes) reveals the following: (1) In 2010, the river bank was fairly natural, with trees lining the river bank; (2) In 2012, a large strip along the bank has been reclaimed; also, there is evidence of a retaining wall being built; (3) In 2013, the GE image shows that a very large patch, with a retaining wall in the northern half, has been reclaimed. A roughly rectangular plot 130 m x 55 m that corresponds to a minimum of 3900 sq. m. area now exists in the river. This reclamation has been carried out in less than 3 years. The figure 3900 m<sup>2</sup> needs further confirmation and may need a detailed survey with measurements at site for accurate comparisons (may refer to page 3 of the report).
- x) The presence of 17 barges in the GE image indicates a major barge building activity. The confirmed reclamation described above stretch falls under the NDZ, and is therefore a gross violation of the prevailing CRZ 2011 notification.

3. The site was also inspected by Mr.Fletcher Fernandes (Technical Officer GCZMA) on 21/11/2014 also observed various violations pertaining to CRZ Notification 2011. The observations recorded by the Technical Officer, GCZMA during the site inspection are as follows:
  - a) The site is located adjacent to NH 17 ó A along the banks of River Zuari.
  - b) There are rails which lead to River Zuari which are used for ingress and outgress of barges / fishing boats for the purpose of repairs and building etc.
  - c) There is evidence of mud filling of the bank along the riverside of the plot which appears to have been over a period of years.
  - d) At the time of inspection it was found that no repairing or building activity of barges / fishing boats or any other marine craft is carried out but were cutting and piling of barges for scrap.
4. Earlier, GCZMA was also in receipt of a complaint dated 08/01/2015 filed by Chicalim Villagers Action Committee regarding alleged illegal mud filling in river Zuari adjacent to survey no.16/6 and 72/1 of village Dabolim, Mormugao Taluka by M/s Abhishek Engineers in violation of interim order to maintain status quo dated 01/12/2014 passed by the Honøble High Court of Bombay at Goa in the said matter.
5. Pursuant to the said complaint directions dated 12/02/2015 bearing no.GCZMA/MORM/DAB/10-11/11/2010 were issued by this authority to maintain status quo cum stop work of mud filling under Section 5 of the Environment (Protection) Act 1986 read with Rule 4 of the Environment (Protection) Rules, 1986.
6. Thereafter, a show cause notice dated 18/02/2015 bearing no: GCZMA/MORM/DAB/10-11/11/2047 was also issued by this authority based on inspection report dated 21/11/2014 of Technical Officer GCZMA.
7. The said M/s Abhishek Engineers through its proprietor has filed a reply dated 09/03/2015 to above mention show cause notice dated 18/02/2015 which interalia raised many preliminary objections with regard to the inspection report of the Technical Officer.

8. It may be noted that, the GCZMA has granted NOC dated 27/01/2010 bearing Ref. No. GCZMA/S/09-10/06/480 for construction of barge repair workshop which was examined in the 53<sup>rd</sup> GCZMA meeting held on 15/01/2010 and the same is approved with a condition that temporary workshop shed shall be restricted to the size block öAö 9.68 x 330 m and block öBö 11.65 x 3.20 m in Sy. No. 16/6, Chicalim Village subject to NOC from GSPCB and the conditions stipulated therein.
9. It may also be noted that earlier the Additional Collector, South Goa vide his letter dated 14/02/2011 under reference number AC-II/File-Sub Rep/26059/2010/1619 forwarded 3 reports to the Goa Coastal Zone Management Authority which were submitted by the Deputy Collector & SDO, Mormugao one of which report related to the retaining wall erected and land filling covering an area of 15 square meters within 100 m of HTL in Survey No. 16/6, Dabolim done by Shri. Uday Naik proprietor of Abhishek Engineers, Vasco da Gama, Goa. Accordingly earlier the Goa Coastal Zone Management Authority had issued a Show Cause Notice dated 08/03/2011 for illegal construction / erection of retaining wall and land filling covering an area of 15 Sq. m under reference No. GCZMA/MORM/DAB/1041/11/919 and also subsequently issued another a Show Cause Notice dated 06/07/2012 for illegal construction of retaining wall with rubble stones having length of 40 m and 1 m height at water front without obtaining permission to M/s. Abhishek Engineers through its proprietor Shri. Uday Naik. Earlier the site was also inspected by AG Untawale Member Secretary of GCZMA along with Member Secretary Goa State Bio Diversity Board (GSBB) along with Directorate of Settlement Land Records (DSLRL) on 16/11/2012. The DSLRL later submitted a survey plan vide letter dated 28/12/12 (Inwarded on 2/1/2013) pertaining to mapping of structures existing in Syno.72/1 (Part) & 16/6 & 7 of Dabolim Village, Mormugao Taluka.
10. The mater came up for hearing before the Honøble High Court of Bombay at Goa wherein vide order dated 24/02/2015 the Honøble Court was pleased to dispose the abovementioned matter with a direction to the concerned authorities to proceed with the show cause notice as expeditiously as possible within three months of date of order.
11. Accordingly, a notice of personal hearing dated 12/05/2015 bearing ref. No. GCZMA/MORM/DAB/10-11/11/266 was issued to all the concerned parties to appear

remain present for personal hearing with all the documents, approved site plans and / or other related documents before the Member Secretary of the GCZMA on 21/05/2015.

12. On the said day of the personal hearing, alleged violator, Mr. Uday Naik, Proprietor of M/s. Abhishek Engineers was present along with his advocate Ms. Gina Almeida, Adv. Zeller D'Souza appeared on behalf of Village Panchayat, Chicalim, Mr. Rui Costa Araujo represented Chicalim Villagers Action Committee and also Dr. Nitin Sawant, Member Secretary, Goa State Biodiversity Board (GSBB) was present.
13. The Complainant / Petitioner filed written submissions dated 21/05/2015 and M/s. Abhishek Engineering also filed their reply. The main contention of M/s. Abhishek Engineering was that there is no reclamation being carried out at site under reference which is subject matter of the proceedings. The Complainant Mr. Rui Costa Araujo representing Chicalim Villagers Action Committee stated that there is reclamation being carried out over the period of time prejudgement of the Honøble High Court.
14. Thereafter matter was placed before the authority in the 118<sup>th</sup> GCZMA meeting held on 06/07/2015 for final decision in the mater. In the said meeting the Authority after detailed discussion and due deliberation noted that there is land reclamation being carried out by the violator and hence decided to issue directions under Section 5 of the Environment Protection Act, 1986 read with other enabling provisions to the violator, M/s. Abhishek Engineers to restore the land to its original state in consultation and under supervision of the Goa State Biodiversity Board (GSBB). Accordingly directions dated 21/07/2015 bearing ref no. GCZMA/MORM/DAB/10-11/11/980 were issued by GCZMA to M/s. Abhishek Engineers.
15. The said M/s. Abhishek Engineers later filed a Writ Petition no.642/2015 before the Honøble High Court of Bombay at Goa interalia being aggrieved by directions issued by GCZMA dated 21/07/2015. The said matter came up of hearing before the Honøble High Court of Bombay at Goa on 02/09/2015.
16. The Honøble High Court vide order dated 02/09/2015 has observed as under *øUpon hearing the learned counsel appearing for the respective parties, without going into the merits of the rival contentions a short point which arises for consideration in the above Writ Petition is whether the impugned order dated 21.07.2015 stands vitiated for not*

*complying with the principle of natural justice.” “5. Mr. D. Pangam, learned counsel appearing for the petitioner has pointed out that the impugned order does not disclose any reasons to arrive at the conclusion stated therein. The learned counsel further pointed out that during the course of the hearing the respondents relied upon a report which was not furnished to the petitioner in advance nor any opportunity given to the petitioner to meet the allegations in such report. The learned counsel further submits that as no adequate opportunity was given to the petitioner to meet the allegations of the respondents in the show cause notice, the impugned order deserves to be quashed and set aside.*

**17.** *The Honøble High Court noted that “On the other hand, Mr. Salkar, learned Government Advocate appearing for the respondents points out that the petitioner has committed a breach of the conditions of licence and as such the respondents are entitled to issue the show cause notice to the petitioner and take necessary action in accordance with law. The learned Government Advocate further submits that though there are no reasons in the impugned order nevertheless, the impugned order refers to the minutes of the meeting which according to him would disclose such reasons. The learned Government Advocate as such submits that in case this Court is inclined to remand the matter, directions may be issued to decide the show cause notice as expeditiously as possible.*

**18.** *The Honøble high Court observed that “We have considered the rival contentions of the learned counsel and we have also gone through the records. On plain reading of the impugned order dated 21.07.2015, we find that there are no reasons discloses therein to show how the respondents have arrived at such conclusion. Apart from that, the reliance upon the report which was not furnished to the petitioner would also result in a breach of the principle of natural justice. On this short point, we find that the impugned order dated 21.07.2015 passed by the respondent no.2 cannot be sustained and deserves to be quashed and set aside. Needless to say that the respondent no.2 can proceed to take a decision on the show cause notice dated 18.02.2015 after hearing the petitioner in accordance with law as expeditiously as possible and in any event within four months from the date of the receipt of the order. In view of the above, we pass the following : O R D E R (i) The impugned order dated 21.07.2015 is quashed and set aside. (ii) The*

*respondent no.2 shall proceed to decide the said show cause notice in the light of the observations made herein above in accordance with law. (iii) Rule is made absolute in above terms. (iv)All contentions of both the parties on merits are left open. (v) The petition stands disposed of accordingly”.*

19. In the light of the above, the authority was required to decide show cause notice after giving an opportunity of being heard to M/s Abhishek Engineers and concerned in accordance with law as expeditiously as possible and in any event within four months from the date of receipt of the order (i.e. order dated 02/09/2015 passed by Honøble High Court at Goa in Writ Petition no.642/2015 filed by M/s Abhishek Engineers v/s The State of Goa & ors).
20. The course of action decided for compliance of the abovementioned order was to conduct fresh site inspection to be carried out by Dr.Mascarenhas, Dr. Sawant and Technical officer of GCZMA and thereafter after perusal of fresh site inspection report and thereafter personal hearing to be given to the parties and decide the final course of action.
21. In this regard, a site inspection notice was issued dated 24/11/2015 bearing ref no: GCZMA/ MORM/ DAB/ 10-11/ 11/1983 was issued by the GCZMA fixing the site inspection on 27/11/2015 to which written objection was filed by M/s Abhishek Engineers interalia stating that the same is not permissible as per law and further is being undertaken to widen the scope if the subject matter. Further another site inspection notice dated 15/1/2016 bearing ref no: GCZMA/ MORM/ DAB/ 10-11/ 11//2431 was issued the GCZMA fixing the site inspection on 25/1/2016 to which another written objection dated 19/1/2016 was filed by M/s Abhishek Engineers. Although the site inspection was conducted on 25/1/2016 successfully the report of the expert member GCZMA was awaited.
22. The fresh report of the expert member GCZMA dated 20/3/2016 was only received via email on 28/7/16. The said report has interalia recorded the following findings:-
  1. The plot is located at Chicalim bay, along the southern bank of River Zuari. The saline river is influenced by the daily tides and thus comes under the purview of

CRZ. The near shore zone comprises a mud flat that extends from Chicalim to Cortalim; tidal mud flats are categorized as CRZ I under the prevailing CRZ 2011 rules. The plot falls in the No Development Zone (NDZ).

2. National Highway 17 passes adjacent to the plot. The mandatory setback between the road edge and the property boundary is lacking; instead, wire mesh fencing is fixed along the present edge of the asphalted road.
3. Since the highway is located at a higher level, cutting along road side has been done by the owners; this mud is used for reclamation; a truck transporting mud was seen at the site
4. Encroachment into the riverine area is clearly identified. The obvious evidence of reclamation is the filling along the river bank with loose earth, thus spreading barge repair activities further into the river. Some mud appears fresh, indicating that the filling has been done regularly and progressively (see photos and multi-dated Google Earth images on pages 3 and 4 of this report.
5. In addition, there is also evidence of some mud filling done earlier; this is confirmed by the presence of an older embankment at the site. Also, a large quantity of metal / ferruginous waste as well as used tyres, ropes and plastic material was seen scattered all along the water line. Metal, rubber and plastic debris pose a danger in the form of contamination of the riverine environment.
6. An old ramp with rails laid into the water that was seen during the earlier site visit (March 2014) was noted this time as well (January 2016); this is used to haul marine craft onto the reclaimed bank. Several pontoons(?) / small vessels(?) were found to be in the initial stages of construction. The 60 m long barge that was being built at the site in March 2014 was not seen during the second inspection in January 2016.
7. The Chicalim bay constitutes a gently sloping mud flat; this feature is observed in the toposheet of 1964, and also NHO charts of 1970, 1986 and 2003. Presently, the mud flat appears highly degraded / eroded, probably due to the continuous movement and anchoring of barges, some of which touch the river bed at low tide.
8. In the earlier inspection dated 07 March 2014 by the undersigned, an analyses of multi dated Google earth (GE) images (3 scenes) had revealed the following:
  - (a) In 2010, the river bank was fairly natural, with trees lining the river bank;
  - (b) In 2012, a large strip along the bank has been reclaimed; also, there is evidence about a retaining wall being built;



(c) In 2013, the GE image shows that a very large patch, with a retaining wall in the northern half, has been reclaimed. A roughly rectangular plot 130 m x 55 m that corresponds to a minimum of 3900 sq. m. area now exists in the river. This reclamation has been carried out in less than 3 years.

9. The figure 3900 m<sup>2</sup> needs further confirmation. But it is pertinent to note that the DSLR had already conducted a detailed and accurate field survey with measurements in 2012. A coloured map dated 28 December 2012 was then submitted to GCZMA. The reclaimed portion that is clearly delineated and shown in the DSLR map roughly corresponds to the observations made in this report.
10. In this present report, the GE images (two different scenes) are presented once again. A comparison of two multi-dated images reveals the following(see page 3):
  - i) GE image of March 2010: A natural river bank with substantial vegetation can be identified along the NH 17. Only a thin strip of land can be observed between the road and the water line.
  - ii) GE image of October 2015: A drastic change in the landscape is clearly observed. A large riverine area has been reclaimed with mud brought from elsewhere. The presence of 18 barges / boats in the GE image indicates a major barge building activity.
11. Earlier inspection of March 2014 and analyses of available images had identified reclamation. The second survey of January 2016 has confirmed encroachment by mud filling along the tidally influenced Zuari river bank. The attached satellite images (page 3) offer undisputed proof of mud dumping.
12. File records show a request for land filling of an area of 980 m<sup>2</sup> (70 m x 14 m) In comparison, the land filling identified is 4 times that area. The confirmed reclamation, described in the above stretch (done after 2011) and dumping of industrial waste in an area that falls under the NDZ, is prohibited. These activities are therefore tantamount to gross violations of the prevailing CRZ 2011 notification.
23. In the light of the above the issue before the Committee is that considerable time period has been lapsed and the show cause notice has to be decided after giving an opportunity of being heard to M/s Abhishek Engineers and concerned parties in accordance with law as expeditiously as possible.
24. Accordingly, the said matter was placed in the 1<sup>st</sup> meeting of the Committee to decide on CRZ matters wherein the Committee after detailed discussion and due deliberation

decided to grant personal hearing to the concerned parties and to decide in accordance with law.

25. In this regards, a personal hearing notice has been issued to M/s Abhishek Engineers.

26. It may be noted that, a contempt petition No. 25/2016 has been filed before the Honøble High Court of Bombay at Goa by Chicalim Villagers Action Committee for non-compliance of Order dated 02/09/2015.

In View of the above, the matter is placed before the Committee for grant of personal hearing to the concerned parties.

**Case No. 2.2:**

**To discuss and decide on the applications both dated 04/12/2015 seeking Clearance for proposed repair and regularisation of house / structure bearing H. No. E-3/40A (i.e. Structure I) and a Outhouse (i.e. Structure II) situated in the property bearing Sy. No. 163/1 of Calangute Village, Bardez Taluka by Mr. Antonio G. Braganza.**

**Background:** The applicant has sought permission / CRZ Clearance for proposed repair and regularisation of house / structure bearing H. No. E-3/40A (i.e. Structure I) and A Outhouse (i.e. Structure II) situated in the property bearing Sy. No. 163/1 of Calangute Village, Bardez - Goa. The applicant has submitted a copy of Instrument of Sale dated 14/01/1966 executed between Mr. Diago Joao Mascarenhas and his Antoneita DøSouza (referred to as the Sellers) and Maria Joaquina Braganza (referred to as the Purchaser). The applicant has also submitted a letter dated 14/02/2013 wherein it is stated that the aforesaid property is partly falling in the zone between 200 to 500 m and partly beyond 500 m from the HTL and has also submitted a survey plan of 02/11/2007 which shows only one structure as well as resurvey plan of 13/02/2013 which shows two structures and has also submitted a copy of Permission issued by the Village Panchayat of Calangute re-roofing of the house bearing H. No. 3/40A and a copy of Deed of Gift between Maria J. Braganza and Antonio Gregorio Braganza. The name of mother (Mary Braganza) of the Applicant is reflected in Form I & XIV.

It may be noted that a Writ Petition bearing No. 535 / 2016 has been filed by Mr. Antonio Braganza before the High Court of Bombay at Goa challenging the Judgement dated 26/04/2016 passed by the Honøble Adhoc District Judge-I at (FTC) Mapusa by which the Civil Revision Application No. 16/205 filed by the Petitioner challenging the order dated 08/07/2014 of the Additional Director of Panchayats-II at Panaji-Goa was dismissed and further upheld the Order of demolition dated 13/07/2012 passed by the Respondent No. 2 i.e. the Village Panchayat of Calangute.

The said matter was taken up before the Honøble High Court on 23/06/2016 on which date of hearing the Petitioner (Mr. Antonio Braganza) submitted that an application for regularization has been filed before the GCZMA and the same is pending in view of the clarification sought from the MoEF as far as regularization of the structure is concerned.

Thereafter the said matter was taken up on 15/07/2016 on which date of hearing the Ld. Additional Government Advocate appearing on behalf of the GCZMA submitted that the Application of the Petitioner for regularization of the structures I & II shall be considered in the meeting of the GCZMA. The statement was accepted and the matter is now been stand over to 29/07/2016 for Petitioner to file counter reply to the reply filed by the Respondent No. 4 and to place on record the decision taken by the GCZMA.

It is pertinent to note that earlier the said matter was placed before the Authority in its 98<sup>th</sup> and 99<sup>th</sup> meeting held on 10/02/2014 and 20/02/2014 respectively which was in respect of the compliance of the directions of the Honøble High Court of Bombay at Goa in W. P. No. 324/2013 which was filed by the Petitioner for not taking any final decision in respect of the Show Cause Notice dated 24/05/2012 issued by the GCZMA against the illegal construction carried out in the property bearing Sy. No. 163/1 of Calangute Village.

Vide order dated 29/01/2014 passed in the above matter Honøble High Court was pleased to record the statement of the Advocate appearing for GCZMA that the decision in the matter will be taken at the next Meeting of the GCZMA which is likely to be fixed in 1st week of February 2014. Vide the said order dated 29/01/2014; the Honøble High Court has directed that the decision to be placed by an affidavit before the Court on or before 12/02/2014. The matter was placed in the 98th GCZMA meeting held on 10/02/2014 wherein it was decided to re-examine the matter in view of the objections filed by the Complainant and to verify the Inquiry Committees report by site visit by the Inquiry Committee as well as by GCZMA members Dr. Savita Kerkar, Dr. Nitin Sawant and Dr. Antonio Mascarenhas at the earliest. It was also decided to seek time from the Honøble Court. Accordingly, an inspection was conducted by Dr Savita Kerkar and Dr. Antonio Mascarenhas, Expert members of GCZMA along with the Inquiry Committee conducted and inspection on 14/02/2014.

The Expert Members who inspected the site informed that there exists two structures in Survey No. 163/1. Out of the two structures, 1st structure is mapped on the DSLR map and the 2nd structure is not seen on the DSLR map. If the plinth area of the 1 structure is as per the plinth area on the DSLR map the said structure could be considered for regularization provided Mr. Antonio Braganza and Mrs. Adilda Braganza submits an application to GCZMA for the same. It is also noted that Mr. Antonio Braganza and Mrs. Adilda Braganza has constructed additional floor on the said structure (Structure I). However, the height of the structure is less than 9 mts. Further, it is observed by the members that the 2nd structure (Structure II - outhouse) has got no permission from the Authority and has to be demolished.

The Authority after detailed discussion and due deliberation decided (i.e. in the 99<sup>th</sup> GCZMA meeting) that incase of the structure which is on DSLR map a Show Cause Notice has to be issued to Mr. Antonio Braganza and Mrs. Adilda Braganza as the 1 st floor has been construction without permission of GCZMA. With regard to the 2nd structure which is not seen on DSLR map and is illegal and Show Cause Notice has been already issued the Authority decided to issue order for demolition of the structure.

The said matter was placed in the 133<sup>rd</sup> GCZMA meeting held on 20/07/2016 wherein the Authority noted that the documents produced by the Applicant, Mr. Antonio Braganza in support of his application dated 04/12/2015 for regularization of the structures (Structure I & II) requires examination of the application in terms of the earlier decisions of the Authority and clarification from the concerned parties including personal hearing if required so also, site verification with respect to the application for regularization which could not be carried out due to paucity of time and as such, the Authority after detailed discussion, and due deliberation decided to defer the same and decide in the next meeting.

**In view of the above, the matter is placed for grant of personal hearing to the concerned parties.**

**Case No. 2.3:**

**To discuss and decide on the Order dated 30/11/2015 passed by the Hon'ble High Court of Bombay at Goa in Contempt Petition No. 21/2012 filed in W.P. No. 422/1998 by Mr. Kashinath Shetye V/s. Mr. Anil Hoble & 5 Ors.**

1. A complaint dated 19/03/2012 was filed by Mr. Kashinath Shetye with regard to illegal encroachment in Government land and filling up of land and creek, illegal construction of a compound wall / retaining wall, gate for entering the premises near ice plant at Ribandar, Panaji carried out by Mr. Anil Hoble.
2. Accordingly, upon receipt of the said complaint a Show Cause Notice dated 25/05/2016 was issued to Mr. Anil Hoble so also, a letter was issued to the Deputy Collector & S.D.O, Tiswadi for necessary action in the matter.
3. Subsequently, a reply dated 11/06/2012 to the Show Cause Notice was filed by Mr. Anil Hoble.
4. Further, a site inspection was conducted by Dr. Untawale, the then Expert Member of the erstwhile GCZMA, so also the site was again re-inspected by Dr. Savita Kerkar, the then Expert Member of the erstwhile GCZMA on 24/09/2012. Copies of the site inspection reports of the Expert Members of the GCZMA are annexed herewith as Annexure I.
5. It is pertinent to note that, in this regard, a Contempt Petition bearing No. 21/2012 in W.P. No. 422/1998, has been filed by Mr. Kashinath Shetye wherein the Petitioner sought direction to the GCZMA to take action on account of an alleged breach of the provisions of the CRZ Notification 1991 by Mr. Anil Hoble. The Ld. Additional Government Advocate appearing for the GCZMA had pointed out that an action with that regard has already been initiated by issuing a Show Cause Notice dated 25/05/2012 which is still under consideration by the authorities. However, the Ld. Counsel appearing for the Petitioners, stated that GCZMA be directed to take a final decision on the said Show Cause Notice as early as possible.
6. Accordingly, in view of the above, the Hon'ble High Court of Bombay at Goa disposed off the said Petition vide Order dated 30/11/2015 with a direction to the GCZMA to dispose of the complaint within a period of four months.

7. Now, in view of the aforementioned Order dated 30/11/2015 passed by the Honøble High Court of Bombay at Goa in Contempt Petition No. 21/2012 filed in W.P. No. 422/1998 the said matter is placed before the Committee for grant of personal hearing to the parties with reference to the Show Cause Notice bearing No. GCZMA/TIS/RIB/12-13/02/237 dated 25/05/2012 issued by the erstwhile GCZMA.

**In view of the above, the matter is placed for grant of personal hearing to the concerned parties.**

**Case No. 2.4:**

**To Comply with the Order dated 18/03/2016 of the Hon'ble National Green Tribunal at Pune in Appeal No. 08/2016 filed by Mr. Kashinath Shetye V/s. Aditya Puri & ors with regard to the alleged illegal construction of a structure / Bungalow opposite Adv. Gopal Tamba's House at Ribandar, Tiswadi – Goa**

Brief Summary:

- Complaint received from Mr. Kashinath Shetye & Ors. with regard to alleged illegal construction of a structure / Bungalow opposite Adv. Gopal Tamba's House at Ribandar, Tiswadi - Goa by Mr. Aditya Puri.
- Accordingly, a Show Cause Notice Cum Stop Work Order was issued which was replied to by Mr. Aditya Puri alongwith necessary permissions / licenses/ approvals for modification / reconstruction of the house existing in the said property from the concerned authorities.
- Further, the Site under reference was also inspected by the Technical Officer alongwith Junior Scientific Assistant of the GCZMA wherein it is stated that there is no violation of NOC /permission given by GCZMA dated 06/03/2008.
- Accordingly, in view of the reply and site inspection report, a letter was issued to Mr. Kashinath Shetye informing that no action is warranted in the matter and as such cannot proceed ahead with the complaint filed by him.
- However, the said Order / letter was challenged before the Honøble National Green Tribunal vide Appeal bearing No. 08/2016 by Mr. Kashianth Shetye & Ors. The said Appeal bearing No. 08/2016 was disposed of by the Honøble NGT at Pune vide Order dated 18/03/2016 thereby quashing and setting aside the Order dated 14/12/2015 issued by the GCZMA and remanded the matter back to the GCZMA with a direction to hear the concerned parties and take decision in the matter in accordance with law within a period of four months.
- The matter was placed in the 132<sup>nd</sup> GCZMA meeting held on 06/07/2016 wherein the Authority after detailed discussion and due deliberation decided to conduct re-inspection of the site under reference through its Expert Member of the GCZMA.
- Accordingly, site inspection was conducted by Shri. Ragunath Dhume and Dr. Antonio Mascarenhas on 15/07/2016. The site inspection report submitted by Dr. Antonio Mascarenhas is as follows:

- The property belong to Mr A Puri who has built a house in the plot; originally, the plot belonged to some other individual.
- The plot is located on the southern bank of tidal river Mandovi, on the riverside side of the existing road; the new house lies about 8-10 metres form HTL.
- The original vertical wall which was composed of laterite stone has been restored but has not been tampered with. A grill of steel is fixed on the outer part of the wall.
- Similarly, the original boundary wall still exists, but has been covered with natural laterite stone.
- The owner has obtained approvals from the erstwhile GCZMA based on which the house has been constructed. However, the area is classified by GCZMA as CRZ II whereas the CZMP 1996 for Goa has classified this area (Ribandar) as CRZ III.
- It is this issue that is challenged by the complainant. Moreover, the same complainant is of the view that such a property cannot be sold to a non-local individual. As this case may now have further legal repercussion, it needs to be debated by the GCZMA.

The said matter was placed in the 133<sup>rd</sup> GCZMA meeting held on 20/07/2016 wherein the Authority after detailed discussion and due deliberation and upon considering the site inspection report dated 15/07/2016 and the fact that complainant has brought forward new facts and also on considering the aforementioned observations wherein there are alleged discrepancies in the categorization of the CRZ areas and as such the Authority decided to grant the concerned parties an opportunity of personal hearing on the issues before the Authority in its next meeting and then to decide the matter.

**In view of the above, the matter is placed for grant of personal hearing to the concerned parties.**

**Case No. 2.5:**

**To Comply with the Order dated 18/03/2016 of the Hon'ble National Green Tribunal at Pune in Appeal No. 06/2016 filed by Mr. Kashinath Shetye V/s. Madan Narayan Sawant & ors with regard to the alleged illegal construction of a Bungalow / commercial establishment by cutting mangroves located in the property bearing Chalta No. 10 and 11 of P.T.Sheet No. 12 at Ribandar, Tiswadi – Goa.**

Brief Summary:

- Complaint received from Mr. Kashinath Shetye & Dr. Ketan Govekar with regard to alleged illegal construction of a structure / Bungalow / commercial establishment by cutting mangroves located in the property bearing Chalta No. 10 and 11 of P.T.Sheet No. 12 at Ribandar, Tiswadi ó Goa.
- Accordingly, a Show Cause Notice was issued to Mr. Madan Narayan Sawant which was replied to alongwith relevant documents in support of his case.
- Further, the site under reference was also inspected by the Technical Officer of GCZMA alongwith the junior Scientific Assistant of GCZMA.

- Based on the reply as well as the site inspection report it was noted that the construction of bungalow has been done after obtaining requisite permissions from the concerned authorities and that there is no violation of the permission issued by the GCZMA and that there is no evidence of cutting of mangroves seen at the site.
- Accordingly, in view of the above, a letter was issued to Mr. Kashinath Shetye informing that no action is warranted in the matter and as such cannot proceed ahead with the complaint filed by him.
- However, the said Order / letter was challenged before the Honøble NGT, Pune vide Appeal bearing No. 06/2016 by Mr. Kashinath Shetye & Ors. The said Appeal bearing No. 06/2016 was disposed of by the Honøble NGT at Pune vide Order dated 18/03/2016 thereby quashing and setting aside the Order dated 15/12/2015 issued by the GCZMA and remanded the matter back to the GCZMA with a direction to hear the concerned parties and take decision in the matter in accordance with law within a period of four months.
- The matter was placed in the 132<sup>nd</sup> GCZMA meeting held on 06/07/2016 wherein the Authority after detailed discussion and due deliberation decided to conduct re-inspection of the site under reference through its Expert Member of the GCZMA.
- Accordingly, site inspection was conducted by Shri. Ragunath Dhume and Dr. Antonio Mascarenhas on 15/07/2016. The site inspection report submitted by Dr. Antonio Mascarenhas is as follows:
  - The property belongs to M Sawant who has built a G+1 residential house in the plot.
  - The property is located on the bank of Chimbel tidal creek, on the river side of the existing road; the house lies about 10-12 metres from the bank (HTL).
  - The creek bank is marked by a concrete retaining wall apparently built by WRD some years ago; the need for such a thick and high concrete wall is not known; some scattered mangroves are noticed.
  - The owner has obtained approvals from the erstwhile GCZMA based on which the house has been constructed. However, the area is classified by GCZMA as CRZ II whereas the CZMP 1996 for Goa has classified this area (Ribandar) as CRZ III.

The said matter was placed in the 133<sup>rd</sup> GCZMA meeting held on 20/07/2016 wherein the Authority after detailed discussion and due deliberation and upon considering the site inspection report dated 15/07/2016 and also on considering the aforementioned observations wherein there are alleged discrepancies in the categorization of the CRZ areas and as such the Authority decided to grant the concerned parties an opportunity to personal hearing on the issues before the Authority in its next meeting and only then to arrive at a decision.

**In view of the above, the matter is placed for grant of personal hearing to the concerned parties.**

**Case No. 2.6:**

**To Comply with the Judgement dated 04/08/2016 of the Hon'ble National Green Tribunal at Pune in Application No. 24/2016 filed by Mrs. Suhasini Govekar challenging the alleged illegal construction of shops, compound wall and a hotel (G+1) in the name and style of "Colours" carried out by Mr. Domnic Almeida and Mrs. Synthia Almeida alias Christilia Almeida in the property bearing Sy. No. 72/37 of Village Anjuna, Bardez – Goa.**

Brief Summary:

- Complaint letter dated 02/09/2015 was received from Mrs. Suhasini Govekar and Mrs. Sheetal Dabolkar with regard to the alleged illegal construction of shops, compound wall and a hotel (G + 1) by name style "Colours" within 200 m from the HTL and without any prior permissions from the concerned authorities being carried out in the property bearing Sy. No. 72/37 at Anjuna Village, Bardez ó Goa by Mr. Domnic Almeida and Mrs. Cynthia Almeida D'Souza alias Mrs. Christillia Almeida both R/o. H. No. 172 G (1) / 2, Alto Duler Mapusa, Bardez - Goa.
- Upon receipt of the said complaint, the Office of the GCZMA had issued a Show Cause Notice cum Stop Work Order bearing No. GCZMA/ILLE- COMPL/15-16/83/1510 dated 09/09/2015 to the alleged violators and had also forwarded the said complaint to the Deputy Collector & S.D.O, Bardez and the Village Panchayat of Anjuna ó Caisua for necessary action and report.
- Also, the Office of the GCZMA was in receipt of a letter dated 14/10/2015 from the O/o. Deputy Collector & S.D.O, Mapusa forwarding the inquiry report of the Mamlatdar of Bardez, Goa.
- Further, the Office was in receipt of reply dated 30/10/2015 from Mr. Domnic Almeida and Mrs. Cynthia Almeida in respect of the Show Cause Notice cum Stop Work Order issued to them wherein it was stated as follows:

1) They have not carried out any illegal construction or development in contravention of the provisions of CRZ Notification 2011 or the Environment ( Protection) Act, 1986.

2) The said matter was earlier a subject matter of demolition Order that came to be issued by the Village Panchayat of Anjuna, Caisua in terms of general directions issued by the Hon'ble High Court of Judicature at Mumbai, Panaji ó Goa in W.P. No. 150 / 1998 and suo moto W.P. No. 2/2006.



3) Further, they filed an appeal before the Director of Panchayats I, in Appeal No. 26/2009 wherein the Addl. Director of Panchayats ó I by Judgement and Order dated 11/03/2010 was pleased to allow the appeal and set aside the demolition Order and remanded the matter back to conduct a detailed enquiry in the matter to ascertain the legality of the construction of the structure carried out in Sy. No. 72/37, Anjuna.

4) Accordingly, the Village Panchayat of Anjuna, Caisua constituted committee for conducting said enquiry which included conducting of site inspection, perusing of documents on record wherein it was resolved unanimously to close the proceedings in view of the fact that the documents established and confirmed that the residential house cum shop existed prior to coming in force of the CRZ Notification as the same is confirmed from the copy of the cadastral survey, copy of the certificate bearing No. VP/ANJ-CAI/1168/09-10 dated 22/04/2009 issued by the Village Panchayat of Anjuna ó Caisua stating that H. No. 765 stands in name of Mr. Pedro Almeida from the year 1983-84, copy of challan dated 04/10/1995 and 03/12/1986 of Director of Tourism, Panaji, NOC regards to registration of Paying Guest under the Tourism Trade Act.

5) The resolution passed on 15/10/2010 by the Village Panchayat of Anjuna having not been called in question nor the report of the enquiry committed being challenged, there is a clear presumption that the structure has been in existence prior to coming in force of CRZ Notification.

- Further, in this regard, a letter dated 06/11/2015 was issued to the complainants seeking for their comments with respect to the reply filed by the alleged violators.
- Subsequently, the Complainant, Mrs. Suhasini Govekar filed comments dated 17/11/2015 in response to the aforementioned reply filed by the alleged violators so also, the Complainant filed additional comments dated 04/02/2016 in this regard.
- Further, the Deputy Collector & S.D.O, Bardez vide letter dated 27/04/2016 was directed to take immediate action in the matter and submit report accordingly.
- A report bearing No. DC/MAP/CRZ/32/2015/3551 dated 29/06/2016 was submitted to this Office by the Deputy Collector & S.D.O, Bardez wherein it is concluded that the structure in question has been in existence prior to coming in force of the CRZ Notification and to withdraw the Show Cause Notice or in the alternative dismiss the complaint for lack of material to substantiate the allegations contained therein.

- Also, the said site under reference was inspected by the then Expert member wherein it is stated that the documents produced by the alleged violator does not pertain to the alleged construction under reference and hence the existence of the structure prior to CRZ Notification, 1991 is not known.
- It is pertinent to note that an Application bearing No. 24/2016 was filed before the Honøble NGT, Pune by Mrs. Suhasini Govekar thereby challenging the alleged illegal construction of shops, compound wall and a hotel (G+1) in the name and style as 'Colours' carried out Mr. Domnic Almeida and Mrs. Synthia Almeida alias Christilia Almeida in the property bearing Sy. No. 72/37 of Village Anjuna, Bardez ó Goa.
- The Honøble NGT, Pune vide Judgment dated 04/08/2016 has been pleased to state that even if the GCZMA by expiry of the period of time has lost its existence, the State Environment Department is the statutory authority who has ultimate control for enforcement of the statutory provisions in the matter relating to CRZ regulations and fixed 19/08/2016 as a date on which Environment Department must proceed with enquiry after giving opportunity to both the parties.

**In view of the above, the matter is placed for grant of personal hearing to the concerned parties.**

**Case No. : 2.7:**

**To Comply with the Judgement dated 05/07/2016 of the Hon'ble High Court of Bombay at Goa in Writ Petition No. 597/2016 filed by Mr. John Pires challenging the Order / directions bearing no. GCZMA/NGT/12-13/04/248 dated 06/05/2016 issued by GCZMA to demolish the illegal construction of structures located in the property bearing Sy. No. 150/3-A (part) and 150/1-B of Village Candolim, Bardez-Goa.**

1. An Order of demolition / directions bearing no. GCZMA/NGT/12-13/04/248 dated 06/05/2016 was issued by the erstwhile GCZMA to Mr. John Francisco Pires with a direction to demolish part of the illegal construction of ground floor and the first floor of Antonio's Guest House and the compound wall running of 75.3 mtrs. located in the property bearing Sy. No. 150/3-A (part) and the entire first floor of the structure where Antonio Guest House is existing located in the Sy. No. 150/1-B of Village Candolim, Bardez-Goa, the passage from the first floor of building of Antonio Guest House in Sy. No. 150/1-B to the first floor of the building of Antonio Guest House in Sy. No. 150/3-A of Candolim Village as indicated in the enclosed report of the Inquiry Committee of

GCZMA within 30 day from the date of receipt of the Order and submit a compliance report to that effect alongwith the photograph within 7 days of expiry period of 30 days time period.

2. However, the said Order of Demolition /directions dated 06/05/2016 issued by GCZMA were challenged by Mr. John Francisco Pires before the Honøble High Court of Bombay at Goa vide W.P. No. 597/2016 on the ground of violation of the principles of natural justice and various other grounds..
3. The said W.P. No. 597/2016 has now been disposed of by the Honøble High Court of Bombay at Goa vide Judgement dated 05/07/2016 thereby setting aside the impugned order of demolition issued by GCZMA with a further direction to GCZMA to hear the concerned and decide the matter afresh.

**In view of the directions of the Hon'ble High Court of Bombay at Goa, the matter is placed before the Committee inorder to grant personal hearing to the parties and take decision in the matter.**

**Case No. 2.8:**

**To discuss and decide on the Complaint dated 01/06/2016 received from Mr. Rajeev Lad requesting to demolish illegal shacks and structures built to carry out business in the property bearing Sy. No. 185/21, Morjim Village, Pernem – Goa.**

1. A complaint dated 01/06/2016 has been received from Mr. Rajeev Lad in continuation to his earlier complaint / objections dated 10/12/2015 with regard to construction / erection of illegal shacks and structures built to carry out business by some unknown people in the property bearing Sy. No. 185/21, Morjim Village, Pernem ó Goa.
2. Upon perusal of the office record, it is seen that there no permission has been granted / issued for erection of shacks / temporary structures in the property bearing Sy. No. 185/21, Morjim Village, Pernem ó Goa.
3. The said complaint letter was placed before the Authority in its 133<sup>rd</sup> GCZMA meeting held on 20/07/2016 for discussion as to the further course of action to be taken in the matter wherein the Authority noted that no permission has been granted / issued for erection of shacks / temporary structures in the property bearing Sy. No. 185/21, Morjim Village, Pernem ó Goa.
4. After detailed discussion and due deliberation and in view of the above, the Authority decided to issue Show Cause Notice to the alleged Violator in respect of the erection of illegal shacks and structures standing in the property bearing Sy. No. 185/21, Morjim with a direction to file reply within 7 days time period alongwith relevant documents. The Authority further decided that incase no reply is received within the prescribed time limit to issue an Order of demolition under Section 5 of the Environment (Protection) Act, 1986, read with other enabling provisions to the said shacks / structures erected in the property bearing Sy. No. 185/21, Morjim. The Authority also noted that as the complaint is filed against unknown persons, the Show Cause Notice and / or Order of

demolition to be served on the violator through the Village Panchayat by affixation of the notice / Order on the structure.

5. In view of the aforementioned decision, a Show Cause Notice bearing No. GCZMA/N/ILLE-COMPL/16-17/44/942 dated 21/07/2016 was issued to an Unknown person, Sy. No. 185/21, Morjim, Pernem ó Goa with a direction to file reply on or before 02/08/2016 thereby explaining why Order of demolition of said structure should not be issued. Also, copy of the said Show cause Notice was forwarded to the Deputy Collector & S.D.O, Pernem and the Secretary, Village Panchayat of Morjim with a direction enforce the service of the notice upon the alleged violator and incase the alleged violator is not found and /or not located, service shall be effected by affixing the Notice on the structures by way of substitute service as per the provisions of Order 5 Rule 17of CPC and to report the compliance to the GCZMA.
6. A letter dated 29/07/2016 was received from the Village Panchayat of Morjim enclosing the copy of Panchanama held during the service of the notice wherein it is stated that the party was not available hence the said Notice dated 21/07/2016 is pasted on the structure.
7. It is noted that till date there has been no reply filed by any person in this regard.

**In this regard, the matter is placed for further course of action in the matter.**

**Item No. 3:**

Any other Item with permission of the Chair.

*Sd/-*

(Vikas S. Naik Gaunekar)  
Director, Environment Department & Ex- Officio  
Joint Secretary to Government

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